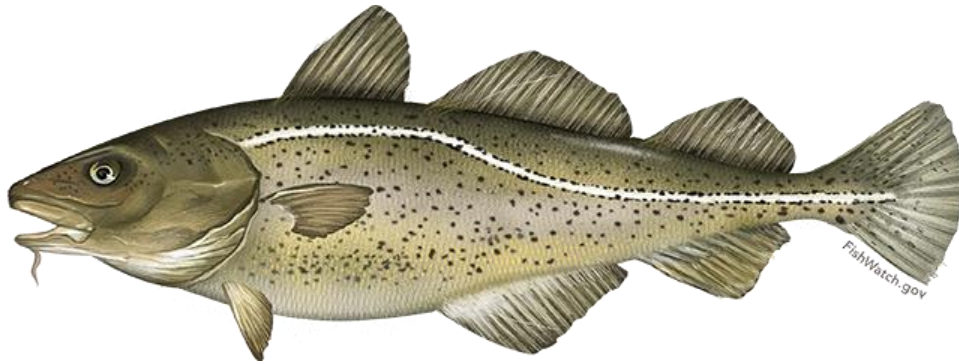


Approval of Fishing Year 2021 and 2022 Operation Plans and Contracts for Groundfish Sectors

Supplemental Information Report



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1.0 Introduction

NOAA's National Marine Fisheries Service (NMFS) is approving Northeast multispecies sector operations plans for fishing years 2021 and 2022, consistent with procedures established in Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). This action allows groundfish sectors to continue to operate in fishing years 2021 and 2022, and make Annual Catch Entitlement (ACE) allocations to sectors for the 2021 fishing year. The action also approves sector exemptions, announce a determination by NMFS that electronic monitoring (EM) is adequate to be used in lieu of at-sea monitors (ASM's) to fulfill sector monitoring requirements, and announces default specifications for groundfish stocks that do not yet have specifications for the 2021 fishing year, consistent with existing regulations. Additionally, this action makes minor regulatory changes, using authority under section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to help implement the use of EM by sectors consistent with the intent of Amendment 16. This action is necessary to allow groundfish sectors to operate in fishing year 2021, and allow sector vessels to operate with regulatory exemptions to increase their efficiency.

The Northeast Multispecies FMP is managed by the New England Fishery Management Council. Under the FMP, each year NMFS is tasked with approving sector operations and allocating ACE to groundfish sectors.

2.0 Purpose of the Supplemental Information Report

The purpose of a Supplemental Information Report (SIR) is to determine if the continued approval of sector operations requires further analysis other than those prepared previously to support sector operations.

In making a determination on the need for additional analysis under the National Environmental Policy Act (NEPA), we have considered and have been guided by the Council on Environmental Quality (CEQ) NEPA regulations and applicable case law. The CEQ's regulations state that "[a]gencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 Code of Federal Regulations (C.F.R.) § 1502.09(d)(1). Consistent with 40 C.F.R. 1502.9(d)(4) and 1501.3(b) we have determined that any changes to the proposed action or new circumstances or information relevant to environmental concerns are not significant and therefore do not require a supplement.

This document describes differences between recent NMFS rulemakings that approved sector operations consistent with the Northeast Multispecies FMP. This document compares the approval of sector operations in the context of the programmatic environmental assessment completed for approval of fishing years 2015-2020 sector operations plans and contracts, which considered the impacts of sector operations, regulatory exemptions for sector vessels, and other circumstances of the sector fishery from fishing year 2015 through 2020. We then consider

whether there are any significant new circumstances or information that are relevant to environmental concerns and that have a bearing on this action or its impacts.

3.0 Action

This rulemaking includes the following:

- Approval of sector operations plans and contracts of 16 Northeast multispecies sectors for fishing years 2021 and 2022 and associated regulatory exemptions;
- Initial allocations of 2021 ACE to approved sectors and state permit banks;
- A determination by NMFS that EM is sufficient to replace ASM's for the collection of sector monitoring data;
- Clarifications to monitoring regulations to improve the implementation of EM in sectors; and
- Default specification for seven groundfish stocks which do not yet have specifications set for fishing year 2021.

4.0 Background of Original Action

Since 2010, NMFS has published annual rulemakings to approve sector operations and exemptions and/or allocating ACE to groundfish sectors. Generally, every other year NMFS approves 2-year operations plans and contracts as well as exemptions and makes a one-year allocation of ACE. In off years, NMFS makes another one-year allocation, as well as approve or disapprove any newly requested exemptions, sector operations plans, or other necessary sector actions. However, for the purposes of this SIR, the original action is the 2015 and 2016 sector rule (80 FR, 25143; May 1, 2015) which was the first rule supported by the 2015-2020 Programmatic Sectors EA (EA). In that rule, NMFS approved operations plans and contracts for 17 groundfish sectors, as well as 19 regulatory exemptions. Eighteen of the nineteen exemptions approved had been previously approved and one, the Redfish Exemption, was a modified version of a previously approved exemption that has since been approved with further modifications. Exemptions that were denied in the 2015 rule are not being approved in this year's action, and remain unapproved. At the time of the 2015 rule, sectors were first taking on the costs of ASM, though most costs have continued to be reimbursed by NMFS since that transition occurred.

5.0 Changes from Original Action

5.1 Sector Exemptions

The action approves 19 previously approved sector exemptions, and disapproves a novel sector exemption similar to one previously approved and later disapproved. Because this action only approves previously approved exemptions, and we have previously determined that all approved exemptions are consistent with the 2015-2020 programmatic EA, and substantively similar to the exemptions outlined in the EA, nothing about the exemptions approved in the action is substantively different than previous actions.

5.2 EM Determination and Updated EM Regulations

This action also announces that sectors may choose to utilize electronic monitoring to fulfill at-sea monitoring requirements for sector vessels and makes updates to sector monitoring regulations necessary to clarify the regulatory structure and implement EM operations in the sector fishery, consistent with the at-sea and electronic monitoring requirements established under Amendment 16 to the Northeast Multispecies FMP. Amendment 16, which was approved in 2010, included annual catch limits, accountability measures, and a requirement for sectors to implement and fund a monitoring program to monitor groundfish catch and discards by sector vessels. Amendment 16 also stated that sectors may use EM to satisfy monitoring requirements if NMFS deemed it sufficient for a given area and gear type. After working with industry and other stakeholders since 2016 to develop EM programs for use as an alternative to an ASM program, we are making that determination for the first time. However, the impacts of that determination, while being announced in this action, are in line with the impacts considered when Amendment 16 was developed, and outside the scope of our regular approval of sector operations and exemptions. As part of our determination, made under this existing NMFS authority, we have determined, based on experience from previous experimental work with EM, that there would not be no substantive impact on sector data quality if EM were used, and therefore we expect no biological impact of allowing EM in lieu of ASM. Further, at this time it appears that the sectors poised to proceed with developing EM programs in 2021 are sectors whose members are already involved in pilot EM programs, and nearly all vessels likely to participate in an approved EM program are likely to be vessels already using EM on an experimental basis. This, combined with the fact that the transition to EM is entirely voluntary for sectors and individual sector vessels, means the announcement of this determination is not expected to have a significant impact on vessel operations and the scope of the analysis in the EA is sufficient to capture the impact of this minor change. Similar to the announcement of the determination, the clarifications to the monitoring regulations are intended to allow for additional clarity when implementing EM programs for sectors, consistent with the intent of Amendment 16. While incorporated in this rule, any impact of the updated sector monitoring regulations is outside the scope of sector operations approval and consistent with analysis conducted in support of Amendment 16.

5.3 Default Catch Limits for Fishing Year 2021

This rule also announces the 2021 catch limits effective on May 1, 2021, including sector and common pool allocations. Framework 59 (85 FR 45794; July 30, 2020), set fishing year 2020-2022 catch limits for 14 groundfish stocks. Framework 59 did not, however, specify a 2021 catch limit for five stocks: GOM winter flounder, SNE/Mid-Atlantic (MA) winter flounder, redfish, ocean pout, or Atlantic wolffish. Framework 59 also did not specify a 2021 catch limit for Eastern GB cod or Eastern GB haddock. Eastern GB cod and haddock are management units of the GB cod and haddock stocks that are jointly managed with Canada, and the shared quota is set annually. Framework 61, which was recently approved by the Council, would set catch limits for stocks that do not currently have one, and modify others, however Framework 61 has been delayed and will not take effect prior to this year's sector rule. As a result, under existing regulations a default catch limit of 35 percent of the previous year's (2020) catch limits will be in effect for these stocks to prevent disruption to the groundfish fishery while Framework 61 is

finalized, except in instances where the default catch limit would exceed the Council's recommendation. The fishing year 2021 State Waters and Other subcomponents specified for redfish in Framework 59 exceed the Council's fishing year 2021 redfish recommendation in Framework 61. These subcomponents are reduced to the Council's recommended amounts consistent with existing regulations. These default catch limits are effective from May 1, 2021, through July 31, 2021, or the date on which the final rule for Framework 61 is implemented if prior to July 31. These default limits will expire after July 31, 2021, if they are not replaced with Framework 61 specifications by that date. Any impacts resulting from default specifications for certain stocks is within the range of alternatives considered in the Framework 59 Adjustment to the Northeast Multispecies FMP (85 FR 45794; July 30, 2020). These default catch limits are not assessed in the EA or this SIR, however, background is provided here for clarity as without the implementation of catch limits, the approval of sector operations and contracts alone does not allow harvest by sectors.

6.0 NEPA Compliance and Supporting Analyses

The 2015-2020 Programmatic Sectors EA analyzed the biological effects of approving sector operations and regulatory exemptions. This included biological impacts, impacts on essential fish habitat, impacts on endangered and other protected species, the economic impacts, the social impacts, and the cumulative effects. As required by NEPA, the Preferred Alternatives were compared to the No Action option and other options.

The conclusions reached in the 2015-2020 Programmatic Sectors EA are that the actions, which include the approval of sector operations and regulatory exemptions would not significantly impact the quality of the human environment. Overall the programmatic EA found that the approval of sector operations and exemptions would result in negligible impacts on the physical environment, habit, essential fish habitat, allocated stocks, non-allocated stocks, low negative impacts on protected resources, and low positive impacts on sector ports and participants. The impact of annual harvest on commercial stocks, bycatch, protected resources, habitat, and human communities is assessed in the Northeast Multispecies Framework Adjustment environmental assessments. No additional significant cumulative impacts are expected from recent sector and sector exemption approvals.

The impacts of this action is not substantially different from what was already considered in the programmatic EA.

7.0 Economic Analysis

The 2015-2020 Programmatic EA for Sectors analyzed the economic impacts of continued sector operations. The impacts of this action fall within the range of impacts considered there and therefor are not significantly different those considered in the programmatic EA.

Overall, this action provides continued flexibility for sector vessels. As described in the 2015-2020 EA, the additional flexibility provided through the continued operations of sectors and sector exemptions is expected to have low positive economic impacts for sector vessels. Similarly, the announcement that EM may be used in lieu of ASM provides additional options for sectors to meet their monitoring requirements and to potentially achieve a level of cost

savings that would further contribute to the positive economic impacts for sector vessels. These benefits do not vary significantly from those analyzed in the 2015-2020 programmatic EA. The overwhelming majority of the economic impacts to sector vessels result from the annual catch specifications for the fishery, which are supported by separate and distinct environmental assessments. Further, the regulations specific to the continued operation of sectors and sector exemptions are not expected to affect the economic impacts predicted in the Framework 59 EA.

9.0 Summary of Public Involvement

The public had the opportunity to comment on the 2015-2020 Sectors Programmatic EA as well as all previous sector rulemakings, and will also have the opportunity to comment during the proposed rule for this action. Additionally there is extensive public input during Council development of framework adjustments and associated catch limits; public comments are taken during NMFS rulemakings to support framework approval. NMFS staff also regularly interact with and receive feedback from sector managers, sector fishermen, the New England Fisheries Management Council, and the public regarding the sector management program including sector exemptions, operations, EM, management of Northeast multispecies.

10.0 Conclusion

After considering this action, new information and new circumstances, NMFS has determined that it is not necessary to supplement the 2015-2020 Programmatic Sector EA and FONSI because: (1) the action and its impacts are not substantially different from what was originally considered and analyzed; and (2) no new information or circumstances exist that are significantly different from when the 2015-2020 Sectors FONSI was signed on April 10, 2015. The 2015-2020 Sectors Programmatic EA and FONSI therefore remain valid to support this action.

11.0 Preparers and Persons Consulted

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12.0 References

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 59; 85 FR 45794; July 30, 2020.

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2015 and 2016 Sector Operations Plans and 2015 Contracts and Allocation of Northeast Multispecies Annual Catch Entitlements; 80 FR 25143; May 1, 2015

Fishing Year 2015-2020 Northeast Multispecies Sector Operations Plans and Contracts: A Programmatic Environmental Assessment; NMFS; 2015